



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,256	05/03/2002	Frank Joseph Garvey	148/291	8425

23638 7590 11/15/2007

ADAMS EVANS P.A.
Suite 2350 Charlotte Plaza
201 South College Street
CHARLOTTE, NC 28244

EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
----------	--------------

3634

MAIL DATE	DELIVERY MODE
-----------	---------------

11/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/049,256	Applicant(s) GARVEY, FRANK JOSEPH	
	Examiner Gregory J. Strimbu	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2007.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15,17-19,22,25 and 26 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 15,17-19,22, 25 and 26 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 03 May 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

The drawing correction filed August 30, 2007 has been approved.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the flexible plastics joints being pre-biased at about 90 degrees relative to the member to which it is attached must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "a door frame" on line 2 and "a door" on line 6 render the claim indefinite because it is unclear if the door frame is the first surface or is in addition to the first surface and it is unclear if the door is the second surface or is in addition to the second surface.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15, 17-19, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Dutch Patent Publication No. 8501481. Dutch Patent Publication No. 8501481 discloses a finger protector device 1 comprising a first mounting portion 2 connected by a first flexible hinge section 7 to a first strip 4 of plastics material, the first strip of plastics material is connected to a second strip 5 of plastics material by a second flexible hinge section 9, the second strip of plastics material is connected to a third strip 6 of plastics material by a third flexible hinge section 10, the third strip of plastics material is connected to a second mounting portion 3 by a fourth flexible hinge

section 8; the finger protector device is arranged, in use, to be mounted to a first surface 12 by the first mounting portion; the finger protector device is arranged, in use, to be mounted to a second surface 11 by the second mounting portion; in which relative movement of the first and second surfaces is possible and in which the first flexible hinge section is pre-biased at about 90° relative to the first strip of plastics material as shown in figure 1 and the fourth flexible hinge section is pre-biased at about 90° relative to the third strip of plastics material as shown in figure 1; and in which the first strip of plastics material and the third strip of plastics material are substantially similar since they comprise the same material and/or they have substantially the same width; the flexible hinge sections 8-10 provide a pivotal connection; the first surface 12 is a door; the second surface 11 is a door frame; the first 4, second 5 and third 6 strips of plastic material are elongate members.

Claims 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Dutch Patent Publication No. 8501481. Dutch Patent Publication No. 8501481 discloses a finger protector device comprising a first mounting portion 3 connected by a first flexible hinge section 8 to a first strip of plastics material 6, the first strip of plastics material 6 is connected to a second strip of plastics material 5 by a second flexible hinge section 10, the second strip of plastics material 5 is connected to a third strip of plastics material 4 by a third flexible hinge section 9, the third strip of plastics material 4 is connected to a second mounting portion 2 by a fourth flexible hinge section 7; the finger protector device is arranged, in use, to be mounted to a first surface 11 by the

Art Unit: 3634

first mounting portion 3; the finger protector device is arranged, in use, to be mounted to a second surface 12 by the second mounting portion 2; in which relative movement of the first and second surfaces is possible and in which the first flexible hinge section is pre-biased at about 90° relative to the first strip of plastics material as shown in figure 1 and the fourth flexible hinge section is pre-biased at about 90° relative to the third strip of plastics material as shown in figure 1; and in which the first strip of plastics material and the third strip of plastics material are substantially similar since they comprise the same material and/or have substantially the same width; a door frame 11 is connected to the first mounting portion 3 which is pivotally connected to the first strip of plastics material which is pivotally connected to the second strip of plastics material which is pivotally connected to the third strip of plastics material which is pivotally connected to the second mounting portion which is connected to a door 12, and wherein the first, second and third strips of plastics material and the first and second mounting portions are all elongate members, and further wherein the finger protector device has a substantially uniform cross-section along its length as shown in figure 3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dutch Patent Publication No. 8501481 as applied to claims 15, 17-19, and 26 above, and further in view of Dutch Patent Publication No. 9301278. Dutch Patent Publication No. 8501481 is silent concerning mounting portions which are thicker than the remaining portions of the finger protection device.

However, Dutch Patent Publication No. 9301278 discloses a finger protection device comprising mounting portions 2 having a thickness which is greater than the remainder of the device.

It would have been obvious to one of ordinary skill in the art to provide the mounting portions of Dutch Patent Publication No. 8501481 with a thickness greater than the remainder of the finger protection device to increase the strength of the mounting portions.

Response to Arguments

Applicant's arguments filed August 30, 2007 have been fully considered but they are not persuasive.

Regarding the applicant's comments concerning Dutch Patent Publication No. 8501481, the examiner respectfully disagrees. The sections of Dutch Patent Publication No. 8501481 are substantially similar since they comprise the same material and/or have the same general thickness as shown in figure 3. Dutch Patent Publication No. 8501481 discloses that the mounting portions 2 and 3 are pre-biased to about 90 degrees since the finger protection device 1 of Dutch Patent Publication No. 8501481 is

shown in an unstressed state in figure 1 and the mounting portions 2 and 3 are about 90 degrees with respect to the other portions of the finger protection device.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3634

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu". The signature is fluid and cursive, with the first name "Gregory" being more legible than the last name "Strimbu".

Gregory J. Strimbu
Primary Examiner
Art Unit 3634
November 13, 2007